

Approval of Management Contracts

25 CFR Part 533

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§533.1 Requirement for review and approval.

Subject to the Chairman's approval, an Indian tribe may enter into a management contract for the operation of a class II or class III gaming activity.

- (a) Such contract shall become effective upon approval by the Chairman.
- (b) Contract approval shall be evidenced by a Commission document dated and signed by the Chairman. No other means of approval shall be valid.
- (c) Contracts approved by the Secretary remain effective until approved or disapproved by the Chairman.

§533.2 Time for submitting management contracts.

A tribe or a management contractor shall submit a management contract to the Chairman for review within sixty (60) days of execution by the parties. The Chairman shall notify the parties of their right to appeal the approval or disapproval of the management contract under part 539 of this chapter.

§533.3 Submission of management contract for approval.

A tribe shall include in any request for approval of a management contract under this part:

- (a) A contract containing:
 - (1) Original signatures of an authorized official of the tribe and the management contractor;
 - (2) A representation that the contract as submitted to the Chairman is the entirety of the agreement among the parties; and
- (b) A letter, signed by the tribal chairman, setting out the authority of an authorized tribal official to act for the tribe concerning the management contract.
- (c) Copies of documents evidencing the authority under paragraph (b) of this section.

(d) A list of all persons and entities identified in §§537.1(a) and 537.1(c)(1) of this chapter, and either:

(1) The information required under §537.1(b)(1) of this chapter for class II gaming contracts and §537.1(b)(1)(i) of this chapter for class III gaming contracts; or

(2) The dates on which the information was previously submitted.

(e)(1) For new contracts and new operations, a three (3)-year business plan which sets forth the parties' goals, objectives, budgets, financial plans, and related matters; or

(2) For new contracts for existing operations, a three (3)-year business plan which sets forth the parties' goals, objectives, budgets, financial plans, and related matters, and income statements and sources and uses of funds statements for the previous three (3) years.

(f) If applicable, a justification, consistent with the provisions of §531.1(h) of this chapter, for a term limit in excess of five (5) years, but not exceeding seven (7) years.

(g) If applicable, a justification, consistent with the provisions of §531.1(i) of this chapter, for a fee in excess of thirty (30) percent, but not exceeding forty (40) percent.

(h) A legal description for the site on which the gaming operation to be managed is, or will be, located.

§533.4 Action by the Chairman.

(a) The Chairman shall approve or disapprove a management contract, applying the standards contained in §533.6 of this part, within 180 days of the date on which the Chairman receives a complete submission under §533.3 of this part, unless the Chairman notifies the tribe and management contractor in writing of the need for an extension of up to ninety (90) days.

(b) A tribe may bring an action in a U.S. district court to compel action by the Chairman:

(1) After 180 days following the date on which the Chairman receives a complete submission if the Chairman does not approve or disapprove the contract under this part; or

(2) After 270 days following the Chairman's receipt of a complete submission if the Chairman has told the tribe and management contractor in writing of the need for an extension and has not approved or disapproved the contract under this part.

§533.5 Reserved

§533.6 Approval.

(a) The Chairman may approve a management contract if it meets the standards of part 531 of this chapter and §533.3 of this part. Failure to comply with the standards of part 531 of this chapter or §533.3 may result in the Chairman's disapproval of the management contract.

(b) The Chairman shall disapprove a management contract for class II gaming if he or she determines that—

(1) Any person with a direct or indirect financial interest in, or having management responsibility for, a management contract:

- (i) Is an elected member of the governing body of the tribe that is party to the management contract;
 - (ii) Has been convicted of any felony or any misdemeanor gaming offense;
 - (iii) Has knowingly and willfully provided materially false statements or information to the Commission or to a tribe;
 - (iv) Has refused to respond to questions asked by the Chairman in accordance with his or her responsibilities under this part; or
 - (v) Is determined by the Chairman to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of related business and financial arrangements;
- (2) The management contractor or its agents have unduly interfered with or influenced for advantage, or have tried to unduly interfere with or influence for advantage, any decision or process of tribal government relating to the gaming operation;
- (3) The management contractor or its agents has deliberately or substantially failed to follow the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or
- (4) A trustee, exercising the skill and diligence to which a trustee is commonly held, would not approve the contract.
- (c) The Chairman may disapprove a management contract for class III gaming if he or she determines that a person with a financial interest in, or management responsibility for, a management contract is a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of related business and financial arrangements.

§533.7 Void agreements.

Management contracts and changes in persons with a financial interest in or management responsibility for a management contract, that have not been approved by the Chairman in accordance with the requirements of part 531 of this chapter and this part, are void.